

SENATE BILL 869

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2004 Regular Session  
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CF HB 1308

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By: **Senators Middleton, Astle, Britt, Brochin, Exum, Forehand, Frosh,  
Garagiola, Gladden, Grosfeld, Hogan, Jones, Kelley, McFadden, Pinsky,  
Ruben, and Teitelbaum**

Introduced and read first time: February 23, 2004

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Electricity Regulation - Renewable Energy Portfolio Standard and Credit**  
3 **Trading - Maryland Renewable Energy Fund**

4 FOR the purpose of requiring the Public Service Commission to establish renewable  
5 energy portfolio standards for certain retail electricity sales during certain  
6 years; requiring certain standards to be met by the accumulation of renewable  
7 energy credits; providing for the eligibility of energy from certain sources under  
8 certain circumstances; providing additional credit for energy from certain  
9 sources for certain periods; limiting the credits available from certain sources  
10 under certain circumstances; allowing certain customers to obtain and apply  
11 certain credits in a certain manner; requiring electricity suppliers to submit a  
12 certain report each year to the Commission; authorizing certain electricity  
13 suppliers to demonstrate compliance in certain manners; requiring electricity  
14 suppliers to pay certain compliance fees under certain circumstances; providing  
15 for the recovery of certain costs under certain circumstances; establishing a  
16 Maryland Renewable Energy Fund to be administered by the Maryland Energy  
17 Administration under Commission oversight for certain purposes; requiring the  
18 State Treasurer and the State Comptroller to perform certain functions related  
19 to the Fund; authorizing the Fund to be used for loans and grants to eligible  
20 projects; requiring the Commission to review and approve certain applications;  
21 requiring the Commission to establish and maintain a renewable electricity  
22 trading system that includes a certain registry; authorizing the Commission to  
23 contract with another entity for a certain purpose; requiring the registry to  
24 provide certain information to certain persons; authorizing the sale and transfer  
25 of renewable energy credits; establishing a time limit for the existence of  
26 renewable energy credits; authorizing the Commission to impose an  
27 administrative fee on certain transactions; providing that the Commission has  
28 certain power and authority over electricity suppliers for certain purposes;  
29 requiring the Commission to report to the General Assembly each year on  
30 certain matters; requiring the Commission to establish a technical advisory  
31 group for certain purposes; requiring the Commission to adopt certain  
32 regulations by certain dates; specifying intents and findings of the General  
33 Assembly; defining certain terms; repealing certain provisions relating to a

1 requirement that an electric company continue to purchase certain electricity  
2 under certain contracts and to provide a certain percentage of renewable energy  
3 sources; repealing an obsolete reporting requirement; providing for a delayed  
4 effective date for certain provisions of this Act; and generally relating to the  
5 establishment of renewable energy portfolio standards, a renewable electricity  
6 credit trading system, and the Maryland Renewable Energy Fund.

7 BY repealing and reenacting, without amendments,  
8 Article - Public Utility Companies  
9 Section 1-101(a) and (j)  
10 Annotated Code of Maryland  
11 (1998 Volume and 2003 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article - Public Utility Companies  
14 Section 7-516  
15 Annotated Code of Maryland  
16 (1998 Volume and 2003 Supplement)

17 BY adding to  
18 Article - Public Utility Companies  
19 Section 7-701 through 7-713 to be under the new subtitle "Subtitle 7.  
20 Renewable Energy Portfolio Standard"  
21 Annotated Code of Maryland  
22 (1998 Volume and 2003 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Public Utility Companies**

26 1-101.

27 (a) In this article the following words have the meanings indicated.

28 (j) (1) "Electricity supplier" means a person:

29 (i) who sells:

30 1. electricity;

31 2. electricity supply services;

32 3. competitive billing services; or

33 4. competitive metering services; or

1 (ii) who purchases, brokers, arranges, or markets electricity or  
2 electricity supply services for sale to a retail electric customer.

3 (2) "Electricity supplier" includes an electric company, an aggregator, a  
4 broker, and a marketer of electricity.

5 (3) "Electricity supplier" does not include:

6 (i) the following persons who supply electricity and electricity  
7 supply services solely to occupants of a building for use by the occupants:

8 1. an owner/operator who holds ownership in and manages  
9 the internal distribution system serving the building; or

10 2. a lessee/operator who holds a leasehold interest in and  
11 manages the internal distribution system serving the building; or

12 (ii) a person who generates on-site generated electricity.

13 SUBTITLE 7. RENEWABLE ENERGY PORTFOLIO STANDARD.

14 7-701.

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
16 INDICATED.

17 (B) "ADMINISTRATION" MEANS THE MARYLAND ENERGY ADMINISTRATION.

18 (C) "FUND" MEANS THE MARYLAND RENEWABLE ENERGY FUND  
19 ESTABLISHED UNDER § 7-706 OF THIS SUBTITLE.

20 (D) "INDUSTRIAL PROCESS LOAD" MEANS THE CONSUMPTION OF  
21 ELECTRICITY BY A MANUFACTURING PROCESS AT AN ESTABLISHMENT CLASSIFIED  
22 IN THE MANUFACTURING SECTOR UNDER THE NORTH AMERICAN INDUSTRY  
23 CLASSIFICATION SYSTEM, CODES 31 THROUGH 33.

24 (E) (1) "QUALIFYING BIOMASS" MEANS A SOLID, NONHAZARDOUS, ORGANIC  
25 MATERIAL THAT IS AVAILABLE ON A RENEWABLE OR RECURRING BASIS, AND IS:

26 (I) WASTE MATERIAL THAT IS SEGREGATED FROM OTHER SOLID  
27 WASTE MATERIAL AND IS DERIVED FROM:

28 1. EXCEPT FOR OLD GROWTH TIMBER, ANY OF THE  
29 FOLLOWING FOREST-RELATED RESOURCES:

30 A. MILL RESIDUE;

31 B. PRECOMMERCIAL SOFT WOOD THINNING;

32 C. SLASH;

- 1 D. BRUSH; OR
- 2 E. YARD WASTE;
- 3 2. A PALLET, CRATE, OR DUNNAGE;
- 4 3. AGRICULTURAL AND SILVICULTURAL SOURCES,  
5 INCLUDING TREE CROPS, VINEYARD MATERIALS, GRAIN, LEGUMES, SUGAR, AND  
6 OTHER CROP BY-PRODUCTS OR RESIDUES; OR
- 7 4. GAS PRODUCED FROM THE ANAEROBIC DECOMPOSITION  
8 OF POULTRY WASTE; OR

9 (II) A PLANT THAT IS CULTIVATED EXCLUSIVELY FOR PURPOSES  
10 OF BEING USED AT A TIER 1 RENEWABLE SOURCE OR A TIER 2 RENEWABLE SOURCE  
11 TO PRODUCE ELECTRICITY.

12 (2) "QUALIFYING BIOMASS" INCLUDES BIOMASS LISTED IN PARAGRAPH  
13 (1) OF THIS SECTION THAT IS USED FOR CO-FIRING, SUBJECT TO § 7-704(F) OF THIS  
14 SUBTITLE.

15 (3) "QUALIFYING BIOMASS" DOES NOT INCLUDE:

16 (I) UNSEGREGATED SOLID WASTE OR POSTCONSUMER  
17 WASTEPAPER; OR

18 (II) AN INVASIVE EXOTIC PLANT SPECIES.

19 (F) "PJM REGION" MEANS THE CONTROL AREA ADMINISTERED BY THE PJM  
20 INTERCONNECTION, INC., AS THE AREA MAY CHANGE FROM TIME TO TIME.

21 (G) "RENEWABLE ENERGY CREDIT" OR "CREDIT" MEANS A CREDIT EQUAL TO  
22 THE ENVIRONMENTAL ATTRIBUTES OF 1 MEGAWATT-HOUR OF ELECTRICITY THAT IS  
23 DERIVED FROM A TIER 1 RENEWABLE SOURCE OR A TIER 2 RENEWABLE SOURCE  
24 THAT IS LOCATED:

25 (1) IN THE PJM REGION OR IN A STATE THAT IS ADJACENT TO THE PJM  
26 REGION; OR

27 (2) OUTSIDE THE AREA DESCRIBED IN ITEM (1) OF THIS SUBSECTION  
28 BUT IN A CONTROL AREA THAT IS ADJACENT TO THE PJM REGION, IF THE  
29 ELECTRICITY IS DELIVERED INTO THE PJM REGION.

30 (H) "RENEWABLE ENERGY PORTFOLIO STANDARD" OR "STANDARD" MEANS  
31 THE PERCENTAGE OF ELECTRICITY SALES AT RETAIL IN THE STATE THAT IS TO BE  
32 DERIVED FROM TIER 1 RENEWABLE SOURCES AND TIER 2 RENEWABLE SOURCES IN  
33 ACCORDANCE WITH § 7-703(B) OF THIS SUBTITLE.

34 (I) "TIER 1 RENEWABLE SOURCE" MEANS ONE OR MORE OF THE FOLLOWING  
35 TYPES OF ENERGY SOURCES:

1 (1) SOLAR;

2 (2) WIND;

3 (3) QUALIFYING BIOMASS;

4 (4) METHANE FROM THE ANAEROBIC DECOMPOSITION OF ORGANIC  
5 MATERIALS IN A LANDFILL OR WASTEWATER TREATMENT PLANT;

6 (5) GEOTHERMAL;

7 (6) OCEAN, INCLUDING ENERGY FROM WAVES, TIDES, CURRENTS, AND  
8 THERMAL DIFFERENCES; AND

9 (7) A FUEL CELL THAT PRODUCES ELECTRICITY FROM A TIER 1  
10 RENEWABLE SOURCE UNDER ITEM (3) OR (4) OF THIS SUBSECTION.

11 (J) "TIER 2 RENEWABLE SOURCE" MEANS ONE OR MORE OF THE FOLLOWING  
12 TYPES OF ENERGY SOURCES:

13 (1) HYDROELECTRIC POWER OTHER THAN PUMP STORAGE  
14 GENERATION; AND

15 (2) WASTE-TO-ENERGY.

16 7-702.

17 (A) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

18 (1) RECOGNIZE THE ECONOMIC, ENVIRONMENTAL, FUEL DIVERSITY,  
19 AND SECURITY BENEFITS OF RENEWABLE ENERGY RESOURCES;

20 (2) ESTABLISH A MARKET FOR ELECTRICITY FROM THESE RESOURCES  
21 IN MARYLAND; AND

22 (3) LOWER THE COST TO CONSUMERS OF ELECTRICITY PRODUCED  
23 FROM THESE RESOURCES.

24 (B) THE GENERAL ASSEMBLY FINDS THAT:

25 (1) THE BENEFITS OF ELECTRICITY FROM RENEWABLE ENERGY  
26 RESOURCES, INCLUDING LONG-TERM DECREASED EMISSIONS, A HEALTHIER  
27 ENVIRONMENT, INCREASED ENERGY SECURITY, AND DECREASED RELIANCE ON AND  
28 VULNERABILITY FROM IMPORTED ENERGY SOURCES, ACCRUE TO THE PUBLIC AT  
29 LARGE; AND

30 (2) ELECTRICITY SUPPLIERS AND CONSUMERS SHARE AN OBLIGATION  
31 TO DEVELOP A MINIMUM LEVEL OF THESE RESOURCES IN THE ELECTRICITY SUPPLY  
32 PORTFOLIO OF THE STATE.

1 7-703.

2 (A) (1) (I) THE COMMISSION SHALL IMPLEMENT A RENEWABLE ENERGY  
3 PORTFOLIO STANDARD THAT, EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS  
4 SUBSECTION, APPLIES TO ALL RETAIL ELECTRICITY SALES IN THE STATE BY  
5 ELECTRICITY SUPPLIERS.

6 (II) IF THE STANDARD BECOMES APPLICABLE TO ELECTRICITY  
7 SOLD TO A CUSTOMER AFTER THE START OF A CALENDAR YEAR, THE STANDARD  
8 DOES NOT APPLY TO ELECTRICITY SOLD TO THE CUSTOMER DURING THAT PORTION  
9 OF THE YEAR BEFORE THE STANDARD BECAME APPLICABLE.

10 (2) A RENEWABLE ENERGY PORTFOLIO STANDARD MAY NOT APPLY TO  
11 ELECTRICITY SALES AT RETAIL BY ANY ELECTRICITY SUPPLIER:

12 (I) IN EXCESS OF 300,000,000 KILOWATT-HOURS OF INDUSTRIAL  
13 PROCESS LOAD TO A SINGLE CUSTOMER IN A YEAR;

14 (II) TO RESIDENTIAL CUSTOMERS IN A REGION OF THE STATE IN  
15 WHICH ELECTRICITY PRICES FOR RESIDENTIAL CUSTOMERS ARE SUBJECT TO A  
16 FREEZE OR CAP CONTAINED IN A SETTLEMENT AGREEMENT ENTERED INTO UNDER  
17 § 7-505 OF THIS TITLE UNTIL THE FREEZE OR CAP HAS EXPIRED; OR

18 (III) TO A CUSTOMER SERVED BY AN ELECTRIC COOPERATIVE  
19 UNDER AN ELECTRICITY SUPPLIER PURCHASE AGREEMENT THAT EXISTED ON  
20 OCTOBER 1, 2004, UNTIL THE EXPIRATION OF THE AGREEMENT.

21 (B) THE RENEWABLE ENERGY PORTFOLIO STANDARD SHALL BE AS FOLLOWS:

22 (1) IN 2006, 1% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
23 2 RENEWABLE SOURCES;

24 (2) IN 2007, 1.5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
25 TIER 2 RENEWABLE SOURCES;

26 (3) IN 2008, 2% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
27 2 RENEWABLE SOURCES;

28 (4) IN 2009, 2.5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
29 TIER 2 RENEWABLE SOURCES;

30 (5) IN 2010, 3% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
31 2 RENEWABLE SOURCES;

32 (6) IN 2011, 3.5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
33 TIER 2 RENEWABLE SOURCES;

34 (7) IN 2012, 4% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
35 2 RENEWABLE SOURCES;

1 (8) IN 2013, 4.5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM  
2 TIER 2 RENEWABLE SOURCES;

3 (9) IN 2014, 5% FROM TIER 1 RENEWABLE SOURCES AND 2.5% FROM TIER  
4 2 RENEWABLE SOURCES;

5 (10) IN 2015, 5.5% FROM TIER 1 RENEWABLE SOURCES AND 2% FROM TIER  
6 2 RENEWABLE SOURCES;

7 (11) IN 2016, 6% FROM TIER 1 RENEWABLE SOURCES AND 1.5% FROM TIER  
8 2 RENEWABLE SOURCES;

9 (12) IN 2017, 6.5% FROM TIER 1 RENEWABLE SOURCES AND 1% FROM TIER  
10 2 RENEWABLE SOURCES;

11 (13) IN 2018, 7% FROM TIER 1 RENEWABLE SOURCES AND 0.5% FROM TIER  
12 2 RENEWABLE SOURCES; AND

13 (14) IN 2019 AND LATER, 7.5% FROM TIER 1 RENEWABLE SOURCES AND 0%  
14 FROM TIER 2 RENEWABLE SOURCES.

15 (C) BEFORE CALCULATING THE NUMBER OF CREDITS REQUIRED TO MEET  
16 THE PERCENTAGES ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION, AN  
17 ELECTRICITY SUPPLIER SHALL EXCLUDE FROM ITS TOTAL RETAIL ELECTRICITY  
18 SALES ALL RETAIL ELECTRICITY SALES DESCRIBED IN SUBSECTION (A)(2) OF THIS  
19 SECTION.

20 (D) SUBJECT TO SUBSECTIONS (A) AND (C) OF THIS SECTION, AN ELECTRICITY  
21 SUPPLIER SHALL MEET THE RENEWABLE ENERGY PORTFOLIO STANDARD BY  
22 ACCUMULATING THE EQUIVALENT AMOUNT OF RENEWABLE ENERGY CREDITS THAT  
23 EQUAL THE PERCENTAGE REQUIRED UNDER THIS SECTION.

24 7-704.

25 (A) (1) ENERGY FROM A TIER 1 RENEWABLE SOURCE:

26 (I) IS ELIGIBLE FOR INCLUSION IN MEETING THE RENEWABLE  
27 ENERGY PORTFOLIO STANDARD REGARDLESS OF WHEN THE GENERATING SYSTEM  
28 OR FACILITY WAS PLACED IN SERVICE; AND

29 (II) MAY BE APPLIED TO THE PERCENTAGE REQUIREMENTS OF THE  
30 STANDARD FOR EITHER TIER 1 RENEWABLE SOURCES OR TIER 2 RENEWABLE  
31 SOURCES.

32 (2) ENERGY FROM A TIER 2 RENEWABLE SOURCE IS ELIGIBLE FOR  
33 INCLUSION IN MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD  
34 THROUGH 2018 IF IT IS GENERATED AT A SYSTEM OR FACILITY THAT EXISTED AND  
35 WAS OPERATIONAL AS OF JANUARY 1, 2004.

36 (B) ON OR AFTER JANUARY 1, 2004, AN ELECTRICITY SUPPLIER MAY:

1 (1) RECEIVE RENEWABLE ENERGY CREDITS; AND

2 (2) ACCUMULATE RENEWABLE ENERGY CREDITS UNDER THIS  
3 SUBTITLE.

4 (C) AN ELECTRICITY SUPPLIER SHALL RECEIVE DOUBLE CREDIT TOWARD  
5 MEETING THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ENERGY DERIVED  
6 FROM SOLAR ENERGY.

7 (D) (1) THIS SUBSECTION APPLIES ONLY TO A GENERATING FACILITY THAT  
8 IS PLACED IN SERVICE ON OR AFTER JANUARY 1, 2004.

9 (2) (I) ON OR BEFORE DECEMBER 31, 2005, AN ELECTRICITY SUPPLIER  
10 SHALL RECEIVE 120% CREDIT TOWARD MEETING THE RENEWABLE ENERGY  
11 PORTFOLIO STANDARD FOR ENERGY DERIVED FROM WIND.

12 (II) AFTER DECEMBER 31, 2005, AND ON OR BEFORE DECEMBER 31,  
13 2008, AN ELECTRICITY SUPPLIER SHALL RECEIVE 110% CREDIT TOWARD MEETING  
14 THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ENERGY DERIVED FROM  
15 WIND.

16 (3) ON OR BEFORE DECEMBER 31, 2008, AN ELECTRICITY SUPPLIER  
17 SHALL RECEIVE 110% CREDIT TOWARD MEETING THE RENEWABLE ENERGY  
18 PORTFOLIO STANDARD FOR ENERGY DERIVED FROM METHANE UNDER § 7-701(I)(4)  
19 OF THIS SUBTITLE.

20 (E) (1) AN ELECTRICITY SUPPLIER MAY NOT USE THE INCINERATION OF  
21 SOLID WASTE TO MEET MORE THAN 20% OF THE STANDARD FOR TIER 2 RENEWABLE  
22 SOURCES FOR A GIVEN YEAR.

23 (2) AFTER DECEMBER 31, 2012, AN ELECTRICITY SUPPLIER MAY NOT  
24 RECEIVE A RENEWABLE ENERGY CREDIT FROM THE INCINERATION OF SOLID  
25 WASTE.

26 (F) AN ELECTRICITY SUPPLIER SHALL RECEIVE CREDIT TOWARD MEETING  
27 THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR ELECTRICITY DERIVED FROM  
28 THE BIOMASS FRACTION OF BIOMASS CO-FIRED WITH OTHER FUELS.

29 (G) (1) IN THIS SUBSECTION, "CUSTOMER" MEANS AN INDUSTRIAL  
30 ELECTRIC CUSTOMER THAT IS NOT ON STANDARD OFFER SERVICE.

31 (2) (I) A CUSTOMER MAY INDEPENDENTLY ACQUIRE RENEWABLE  
32 ENERGY CREDITS TO SATISFY THE STANDARDS APPLICABLE TO THE CUSTOMER'S  
33 LOAD.

34 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III)1 OF THIS  
35 PARAGRAPH, THE CUSTOMER SHALL SURRENDER THE CREDITS NECESSARY TO  
36 MEET THE STANDARD TO ITS ELECTRICITY SUPPLIER FOR INCLUSION IN THE  
37 ELECTRICITY SUPPLIER'S COMPLIANCE REPORT UNDER § 7-705 OF THIS SUBTITLE.

1 (III) 1. CREDITS THAT A CUSTOMER SURRENDERS TO ITS  
2 ELECTRICITY SUPPLIER TO MEET THE STANDARD AND THAT THE ELECTRICITY  
3 SUPPLIER RELIES ON IN SUBMITTING ITS COMPLIANCE REPORT MAY NOT BE RESOLD  
4 OR RETRANSFERRED BY THE CUSTOMER.

5 2. THE CUSTOMER MAY RETAIN OR TRANSFER ANY CREDITS  
6 IN EXCESS OF THE AMOUNT NEEDED TO SATISFY THE STANDARD FOR THE  
7 CUSTOMER'S LOAD.

8 (3) A CUSTOMER THAT SATISFIES THE STANDARD APPLICABLE TO THE  
9 CUSTOMER'S LOAD UNDER THIS SUBSECTION MAY NOT BE REQUIRED TO  
10 CONTRIBUTE TO A COMPLIANCE FEE RECOVERED UNDER § 7-706 OF THIS SUBTITLE.

11 (4) THE COMMISSION SHALL ADOPT REGULATIONS GOVERNING THE  
12 APPLICATION AND TRANSFER OF CREDITS UNDER THIS SUBSECTION CONSISTENT  
13 WITH FEDERAL LAW.

14 (H) (1) IN ORDER TO CREATE A RENEWABLE ENERGY CREDIT, A TIER 1  
15 RENEWABLE SOURCE OR TIER 2 RENEWABLE SOURCE MUST SUBSTANTIALLY  
16 COMPLY WITH ALL APPLICABLE ENVIRONMENTAL AND ADMINISTRATIVE  
17 REQUIREMENTS, INCLUDING AIR QUALITY, WATER QUALITY, SOLID WASTE, AND  
18 RIGHT-TO-KNOW PROVISIONS, PERMIT CONDITIONS, AND ADMINISTRATIVE ORDERS.

19 (2) (I) THIS PARAGRAPH APPLIES TO TIER 2 RENEWABLE SOURCES  
20 THAT INCINERATE SOLID WASTE.

21 (II) AT LEAST 80% OF THE SOLID WASTE INCINERATED AT A TIER 2  
22 RENEWABLE SOURCE FACILITY SHALL BE COLLECTED FROM:

23 1. FOR AREAS IN MARYLAND, JURISDICTIONS THAT ACHIEVE  
24 THE RECYCLING RATES REQUIRED UNDER § 9-505 OF THE ENVIRONMENT ARTICLE;  
25 AND

26 2. FOR OTHER STATES, JURISDICTIONS FOR WHICH THE  
27 ELECTRICITY SUPPLIER DEMONSTRATES RECYCLING SUBSTANTIALLY COMPARABLE  
28 TO THAT REQUIRED UNDER § 9-505 OF THE ENVIRONMENT ARTICLE, IN  
29 ACCORDANCE WITH REGULATIONS OF THE COMMISSION.

30 (III) AN ELECTRICITY SUPPLIER MAY REPORT CREDITS RECEIVED  
31 UNDER THIS PARAGRAPH BASED ON COMPLIANCE BY THE FACILITY WITH THE  
32 PERCENTAGE REQUIREMENT OF SUBPARAGRAPH (II) OF THIS PARAGRAPH DURING  
33 THE YEAR IMMEDIATELY PRECEDING THE YEAR IN WHICH THE ELECTRICITY  
34 SUPPLIER RECEIVES THE CREDIT TO APPLY TO THE STANDARD.

35 7-705.

36 (A) EACH ELECTRICITY SUPPLIER SHALL SUBMIT A REPORT TO THE  
37 COMMISSION EACH YEAR IN A FORM AND BY A DATE SPECIFIED BY THE COMMISSION  
38 THAT:

1 (1) DEMONSTRATES THAT THE ELECTRICITY SUPPLIER HAS COMPLIED  
2 WITH THE APPLICABLE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703  
3 OF THIS SUBTITLE AND INCLUDES THE SUBMISSION OF THE REQUIRED AMOUNT OF  
4 RENEWABLE ENERGY CREDITS; OR

5 (2) DEMONSTRATES THE AMOUNT OF ELECTRICITY SALES BY WHICH  
6 THE ELECTRICITY SUPPLIER FAILED TO MEET THE APPLICABLE RENEWABLE  
7 ENERGY PORTFOLIO STANDARD.

8 (B) IF AN ELECTRICITY SUPPLIER FAILS TO COMPLY WITH THE RENEWABLE  
9 ENERGY PORTFOLIO STANDARD FOR THE APPLICABLE YEAR, THE ELECTRICITY  
10 SUPPLIER SHALL PAY INTO THE MARYLAND RENEWABLE ENERGY FUND  
11 ESTABLISHED UNDER § 7-706 OF THIS SUBTITLE A COMPLIANCE FEE OF:

12 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION:

13 (I) 2 CENTS FOR EACH KILOWATT-HOUR OF SHORTFALL FROM  
14 REQUIRED TIER 1 RENEWABLE SOURCES; AND

15 (II) 1.5 CENTS FOR EACH KILOWATT-HOUR OF SHORTFALL FROM  
16 REQUIRED TIER 2 RENEWABLE SOURCES; OR

17 (2) FOR INDUSTRIAL PROCESS LOAD:

18 (I) 1 CENT FOR EACH KILOWATT-HOUR OF SHORTFALL FROM  
19 REQUIRED TIER 1 RENEWABLE SOURCES; AND

20 (II) 0.75 CENT FOR EACH KILOWATT-HOUR OF SHORTFALL FROM  
21 REQUIRED TIER 2 RENEWABLE SOURCES.

22 (C) THE COMMISSION MAY ALLOW AN ELECTRICITY SUPPLIER TO SUBMIT  
23 THE REPORT REQUIRED UNDER § 7-505(B)(4) OF THIS TITLE TO DEMONSTRATE  
24 COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD.

25 (D) AN AGGREGATOR OR BROKER MAY REQUIRE THE ELECTRICITY SUPPLIER  
26 FROM WHICH THE AGGREGATOR OR BROKER PROCURES ELECTRICITY, AND WHICH  
27 IS NOT ITSELF ACTING AS AN AGGREGATOR OR BROKER IN THE PROCUREMENT, TO  
28 DEMONSTRATE COMPLIANCE WITH THIS SUBTITLE.

29 7-706.

30 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IN  
31 ACCORDANCE WITH THE OBLIGATION TO PROVIDE STANDARD OFFER SERVICE  
32 UNDER § 7-510 OF THIS TITLE, THE COMMISSION SHALL ALLOW AN ELECTRICITY  
33 SUPPLIER TO RECOVER ACTUAL DOLLAR-FOR-DOLLAR COSTS INCURRED,  
34 INCLUDING A COMPLIANCE FEE UNDER § 7-705 OF THIS SUBTITLE, IN COMPLYING  
35 WITH A STATE-MANDATED RENEWABLE ENERGY PORTFOLIO STANDARD.

36 (2) IN ACCORDANCE WITH THE PHASE II SETTLEMENT AGREEMENT  
37 APPROVED BY THE COMMISSION IN ORDER NO. 78710 IN CASE NO. 8908 ON

1 SEPTEMBER 30, 2003, FOR ANY FULL-SERVICE AGREEMENT EXECUTED BEFORE THE  
2 RENEWABLE ENERGY STANDARD UNDER THIS SUBTITLE APPLIES TO AN ELECTRIC  
3 COMPANY, THE ELECTRIC COMPANY AND ITS WHOLESALE ELECTRICITY SUPPLIERS  
4 MAY PASS THROUGH THEIR COMMERCIALY REASONABLE ADDITIONAL COSTS, IF  
5 ANY, ASSOCIATED WITH COMPLYING WITH THE STANDARD, THROUGH THE END OF  
6 THE YEAR OF STANDARD OFFER SERVICE IN WHICH THE REQUIREMENT TOOK  
7 EFFECT.

8 (B) AN ELECTRICITY SUPPLIER MAY RECOVER A COMPLIANCE FEE IF:

9 (1) THE PAYMENT OF A COMPLIANCE FEE IS THE LEAST-COST MEASURE  
10 TO CUSTOMERS AS COMPARED TO THE PURCHASE OF TIER 1 RENEWABLE SOURCES  
11 TO COMPLY WITH A RENEWABLE ENERGY PORTFOLIO STANDARD;

12 (2) THERE ARE INSUFFICIENT TIER 1 RENEWABLE SOURCES AVAILABLE  
13 FOR THE ELECTRICITY SUPPLIER TO COMPLY WITH A RENEWABLE ENERGY  
14 PORTFOLIO STANDARD; OR

15 (3) A WHOLESALE ELECTRICITY SUPPLIER DEFAULTS OR OTHERWISE  
16 FAILS TO DELIVER RENEWABLE ENERGY CREDITS UNDER A SUPPLY CONTRACT  
17 APPROVED BY THE COMMISSION.

18 (C) ANY COST RECOVERY UNDER THIS SECTION:

19 (1) FOR ALL ELECTRICITY SUPPLIERS, MAY BE IN THE FORM OF A  
20 GENERATION SURCHARGE PAYABLE BY ALL CURRENT ELECTRICITY SUPPLY  
21 CUSTOMERS;

22 (2) SHALL BE DISCLOSED TO CUSTOMERS IN A MANNER TO BE  
23 DETERMINED BY THE COMMISSION; AND

24 (3) MAY NOT INCLUDE THE COSTS FOR A POWER PURCHASE CONTRACT  
25 UNDER THE FEDERAL PUBLIC UTILITY REGULATORY POLICY ACT CONTEMPLATED IN  
26 RATES OR RESTRUCTURING PROCEEDINGS.

27 7-707.

28 (A) THERE IS A MARYLAND RENEWABLE ENERGY FUND.

29 (B) THE PURPOSE OF THE FUND IS TO ENCOURAGE THE DEVELOPMENT OF  
30 RESOURCES TO GENERATE RENEWABLE ENERGY IN THE STATE.

31 (C) SUBJECT TO OVERSIGHT BY THE COMMISSION, THE ADMINISTRATION  
32 SHALL ADMINISTER THE FUND.

33 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT  
34 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

35 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE  
36 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

1 (E) THE FUND CONSISTS OF:

2 (1) COMPLIANCE FEES PAID UNDER § 7-705 OF THIS SUBTITLE;

3 (2) PAYMENTS RECEIVED IN REPAYMENT OF A LOAN;

4 (3) INVESTMENT EARNINGS OF THE FUND; AND

5 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE  
6 BENEFIT OF THE FUND.

7 (F) (1) THE FUND MAY BE USED ONLY TO MAKE LOANS AND GRANTS TO  
8 SUPPORT THE CREATION OF NEW TIER 1 RENEWABLE ENERGY SOURCES IN THE  
9 STATE.

10 (2) BY REGULATION THE COMMISSION SHALL ADOPT ELIGIBILITY  
11 CRITERIA FOR PROJECTS SUPPORTED BY THE FUND.

12 (3) (I) THE ADMINISTRATION SHALL RECEIVE AND REVIEW  
13 APPLICATIONS FOR LOANS AND GRANTS FOR ELIGIBLE PROJECTS.

14 (II) THE ADMINISTRATION SHALL APPROVE OR DISAPPROVE  
15 APPLICATIONS FOR LOANS AND GRANTS FROM THE FUND.

16 (4) THE COMMISSION MAY ALLOW THE USE OF MONEY OF THE FUND  
17 FOR ADMINISTRATIVE EXPENSES RELATED TO THE FUND AND PROJECT REVIEW AND  
18 OVERSIGHT.

19 (G) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE  
20 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

21 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO  
22 THE FUND.

23 7-708.

24 (A) (1) THE COMMISSION SHALL ESTABLISH AND MAINTAIN A  
25 MARKET-BASED RENEWABLE ELECTRICITY TRADING SYSTEM TO FACILITATE THE  
26 CREATION AND TRANSFER OF RENEWABLE ENERGY CREDITS.

27 (2) TO THE EXTENT PRACTICABLE, THE TRADING SYSTEM SHALL BE  
28 CONSISTENT WITH AND OPERATE IN CONJUNCTION WITH THE TRADING SYSTEM  
29 DEVELOPED BY PJM INTERCONNECTION, INC., IF AVAILABLE.

30 (3) THE COMMISSION MAY CONTRACT WITH A FOR-PROFIT OR A  
31 NONPROFIT ENTITY TO ASSIST IN THE ADMINISTRATION OF THE ELECTRICITY  
32 TRADING SYSTEM REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

33 (B) (1) THE SYSTEM SHALL INCLUDE A REGISTRY OF PERTINENT  
34 INFORMATION REGARDING ALL:

1 (I) AVAILABLE RENEWABLE ENERGY CREDITS; AND

2 (II) RENEWABLE ENERGY CREDIT TRANSACTIONS AMONG  
3 ELECTRICITY SUPPLIERS IN THE STATE, INCLUDING:

4 1. THE CREATION AND APPLICATION OF RENEWABLE  
5 ENERGY CREDITS;

6 2. THE NUMBER OF RENEWABLE ENERGY CREDITS SOLD OR  
7 TRANSFERRED; AND

8 3. THE PRICE PAID FOR THE SALE OR TRANSFER OF  
9 RENEWABLE ENERGY CREDITS.

10 (2) (I) THE REGISTRY SHALL PROVIDE CURRENT INFORMATION TO  
11 ELECTRICITY SUPPLIERS AND THE PUBLIC ON THE STATUS OF RENEWABLE ENERGY  
12 CREDITS CREATED, SOLD, OR TRANSFERRED IN THE STATE.

13 (II) REGISTRY INFORMATION SHALL BE AVAILABLE BY COMPUTER  
14 NETWORK ACCESS THROUGH THE INTERNET.

15 7-709.

16 (A) AN ELECTRICITY SUPPLIER MAY USE ACCUMULATED RENEWABLE  
17 ENERGY CREDITS TO MEET THE RENEWABLE ENERGY PORTFOLIO STANDARD.

18 (B) A RENEWABLE ENERGY CREDIT MAY BE SOLD OR OTHERWISE  
19 TRANSFERRED.

20 (C) (1) EXCEPT AS AUTHORIZED UNDER PARAGRAPH (2) OF THIS  
21 SUBSECTION, A RENEWABLE ENERGY CREDIT SHALL EXIST FOR 3 YEARS FROM THE  
22 DATE CREATED.

23 (2) A RENEWABLE ENERGY CREDIT MAY BE DIMINISHED OR  
24 EXTINGUISHED BEFORE THE EXPIRATION OF 3 YEARS BY:

25 (I) THE ELECTRICITY SUPPLIER THAT RECEIVED THE CREDIT;

26 (II) A NONAFFILIATED ENTITY OF THE ELECTRICITY SUPPLIER:

27 1. THAT PURCHASED THE CREDIT FROM THE ELECTRICITY  
28 SUPPLIER RECEIVING THE CREDIT; OR

29 2. TO WHOM THE ELECTRICITY SUPPLIER OTHERWISE  
30 TRANSFERRED THE CREDIT; OR

31 (III) DEMONSTRATED NONCOMPLIANCE BY THE GENERATING  
32 FACILITY WITH THE REQUIREMENTS OF § 7-704(G) OF THIS SUBTITLE.

33 (D) NOTWITHSTANDING SUBSECTION (C)(2)(III) OF THIS SECTION, AND ONLY  
34 IF THE DEMONSTRATED NONCOMPLIANCE DOES NOT RESULT IN ENVIRONMENTAL

1 DEGRADATION, AN ELECTRICITY SUPPLIER THAT REASONABLY INCLUDES IN ITS  
2 ANNUAL REPORT UNDER § 7-705 OF THIS SUBTITLE A RENEWABLE ENERGY CREDIT  
3 THAT IS EXTINGUISHED FOR NONCOMPLIANCE WITH § 7-704(G)(1) OR (2) OF THIS  
4 SUBTITLE:

5 (1) MAY CONTINUE TO RELY ON THAT CREDIT FOR THAT YEAR; BUT

6 (2) FOR LATER YEARS MUST:

7 (I) DEMONSTRATE A RETURN TO COMPLIANCE OF THE  
8 GENERATING FACILITY UNDER § 7-704(G) OF THIS SUBTITLE; OR

9 (II) REPLACE THE CREDIT WITH A RENEWABLE ENERGY CREDIT  
10 FROM ANOTHER SOURCE.

11 (E) THE COMMISSION BY REGULATION SHALL ESTABLISH REQUIREMENTS  
12 FOR DOCUMENTATION AND VERIFICATION OF RENEWABLE ENERGY CREDITS BY  
13 LICENSED ELECTRICITY SUPPLIERS AND OTHER GENERATORS THAT CREATE AND  
14 RECEIVE CREDITS FOR COMPLIANCE WITH THE STANDARDS FOR TIER 1 RENEWABLE  
15 SOURCES AND TIER 2 RENEWABLE SOURCES.

16 7-710.

17 THE COMMISSION MAY IMPOSE AN ADMINISTRATIVE FEE ON A RENEWABLE  
18 ENERGY CREDIT TRANSACTION, BUT THE AMOUNT OF THE FEE MAY NOT EXCEED  
19 THE COMMISSION'S ACTUAL DIRECT COST OF PROCESSING THE TRANSACTION.

20 7-711.

21 THE COMMISSION HAS THE SAME POWER AND AUTHORITY WITH RESPECT TO  
22 AN ELECTRICITY SUPPLIER UNDER THIS SUBTITLE THAT THE COMMISSION HAS  
23 WITH RESPECT TO ANY PUBLIC SERVICE COMPANY UNDER THIS ARTICLE FOR THE  
24 PURPOSES OF INVESTIGATING AND EXAMINING THE ELECTRICITY SUPPLIER TO  
25 DETERMINE COMPLIANCE WITH THIS SUBTITLE AND WITH OTHER APPLICABLE LAW.

26 7-712.

27 SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE  
28 FEBRUARY 1 OF EACH YEAR THE COMMISSION SHALL REPORT TO THE GENERAL  
29 ASSEMBLY ON THE STATUS OF IMPLEMENTATION OF THIS SUBTITLE, INCLUDING  
30 THE AVAILABILITY OF TIER 1 RENEWABLE SOURCES, PROJECTS SUPPORTED BY THE  
31 FUND, AND OTHER PERTINENT INFORMATION.

32 7-713.

33 THE COMMISSION SHALL ADOPT REGULATIONS TO IMPLEMENT THE  
34 PROVISIONS OF THIS SUBTITLE.

35 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
36 read as follows:

**Article - Public Utility Companies**

1

2 7-516.

3 [(a) An electric company shall continue to purchase electricity under any  
4 contract in effect on January 1, 1999, with a renewable energy resource facility  
5 located in the State until the later of the expiration of the contract or the expiration or  
6 satisfaction of bonds existing on January 1, 1999, supporting the facility.

7 (b) An investor-owned electric company shall continue to provide at least the  
8 same percentage of electricity from available renewable energy resources, at a  
9 reasonably comparable cost, as the electric company provided in 1998.

10 (c) On or before February 1, 2000, the Commission, in consultation with the  
11 Maryland Energy Administration, shall report to the Governor and, subject to §  
12 2-1246 of the State Government Article, to the General Assembly on the feasibility of  
13 requiring a renewables portfolio standard, including the feasibility and structure of a  
14 two-tiered standard, and the estimated costs and benefits of establishing this  
15 requirement.]

16 [(d)] (A) (1) [(i)] In recognition of the potential environmental impacts of  
17 restructuring the electric industry, it is the intent of the General Assembly to  
18 minimize the effects of electric restructuring on the environment.

19 [(ii)] (2) Electric companies in Maryland shall conduct a study that  
20 tracks shifts in generation and emissions as a result of restructuring the electric  
21 industry.

22 [(iii)] (3) The study shall be submitted to the Department of the  
23 Environment and the Commission one year after the initial date of implementation of  
24 customer choice.

25 [(iv)] (4) Electric companies in Maryland shall update the study  
26 twice and submit each updated study to the Department of the Environment and the  
27 Commission on or before December 31, 2003 and on or before December 31, 2005.

28 [(2)] (B) If, after review of the study required under paragraph (1) of this  
29 subsection, the Department of the Environment determines that the emissions levels  
30 impose a higher emission burden in Maryland, the Department of the Environment,  
31 in consultation with the Commission, shall study the appropriateness,  
32 constitutionality, and feasibility of establishing an air quality surcharge or other  
33 mechanism to protect Maryland's environment in connection with the  
34 implementation of customer choice of electricity suppliers.

35 SECTION 3. AND BE IT FURTHER ENACTED, That:

36 (a) (1) On or before October 1, 2004, the Public Service Commission shall  
37 establish a technical advisory group to develop recommendations on siting,  
38 operational, and monitoring criteria for wind-powered electricity generating facilities  
39 relating to avian and bat issues.

1           (2)     The technical advisory group shall include the following members:

2                   (i)     two biologists who are professionally recognized for their  
3 expertise in avian issues and behavior, including one from the Department of Natural  
4 Resources;

5                   (ii)    two representatives of wind energy companies;

6                   (iii)   one representative of an electricity transmission company or  
7 other individual with interest and experience in siting and interconnection of  
8 electricity transmission facilities with generating facilities;

9                   (iv)   two representatives of environmental groups; and

10                  (v)    one representative of the Commission.

11           (3)     The technical advisory group shall study and make recommendations  
12 on:

13                   (i)     standards that will avoid or minimize impacts on birds and bats  
14 from the construction and operation of wind-energy generating facilities;

15                   (ii)    a tiered system of standards that vary with the size of the  
16 wind-energy generating facility and the associated generating capacity;

17                   (iii)   additional assessments of avian and bat populations and  
18 behavior that may be needed before issuance of a certificate of public convenience and  
19 necessity beyond those needed for other types of generating facilities, if any;

20                   (iv)    additional monitoring studies of avian and bat populations and  
21 behavior during and after construction of a facility; and

22                   (v)     mitigation appropriate to address any impact on avian and bat  
23 populations above a threshold level to be included in the certificate of public  
24 convenience and necessity for a wind-powered electricity generating facility.

25           (4)     In conducting its study, the technical advisory group shall consider  
26 guidelines for siting, operation, and avoidance and mitigation of avian impacts under  
27 development by the United States Fish and Wildlife Service and by other states.

28           (5)     The Power Plant Research Program of the Department of Natural  
29 Resources shall assist the technical advisory group in its study and the development  
30 of recommendations.

31           (6)     On or before June 1, 2005, the technical advisory group shall report  
32 its recommendations to the Commission.

33           (7)     (i)     On or before July 1, 2006, the Commission shall adopt  
34 regulations for wind-powered electricity generating facility siting taking into  
35 consideration the recommendations of the technical advisory group.

1                   (ii)       The regulations may not apply to any wind-powered electricity  
2 generating facility for which an application for a certificate of public convenience and  
3 necessity has been submitted to the Commission before the effective date of the  
4 regulations.

5       (b)       The General Assembly strongly encourages:

6                   (1)       the Public Service Commission to exempt from siting, operational,  
7 and monitoring requirements wind-energy generating facilities that involve only  
8 small turbines for residential, agricultural, and small business use, including  
9 facilities installed for net-energy metering;

10                  (2)       developers of commercial wind-energy generating facilities that  
11 involve more than 10 turbines to:

12                   (i)       conduct at least 1 year of site evaluation, using state-of-the-art  
13 techniques, both for the potential for direct mortality of avian species and for impacts  
14 from fragmentation and loss of forest and other affected habitat; and

15                   (ii)       provide the results of the evaluation to the Commission for  
16 review in connection with proceedings for the issuance of a certificate of public  
17 convenience and necessity;

18                  (3)       developers of commercial wind-energy generating facilities that  
19 involve 10 or fewer turbines to:

20                   (i)       conduct a shorter-term site evaluation both for the potential for  
21 direct mortality of avian species and for impacts from fragmentation and loss of forest  
22 and other affected habitat; and

23                   (ii)       provide the results of the evaluation to the Commission for  
24 review in connection with proceedings for the issuance of a certificate of public  
25 convenience and necessity; and

26                  (4)       developers of all commercial wind-energy generating facilities to:

27                   (i)       conduct post-construction avian mortality studies of the impact  
28 of facility operation; and

29                   (ii)       provide copies to the Commission and, while it exists, to the  
30 technical advisory group.

31       SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in  
32 Section 3 of this Act, on or before July 1, 2005, the Public Service Commission shall  
33 adopt regulations to implement this Act.

34       SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
35 take effect January 1, 2006.

1 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in  
2 Section 5 of this Act, this Act shall take effect July 1, 2004.